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Cash value assessments
required by the state...

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	Signed: Orlando F. Barnes, George B. Horton, Thomas D. Kearney, members of the Board of state tax commissioners (Michigan)
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CASH VALUE ASSESSMENTS

Property
Legislative Drafting Department
Columbia University.

308

Z

Box 136

REQUIRED BY THE STATE CONSTITUTION

Michigan

Box

THE ONLY BASIS FOR EQUAL TAXATION

A DISCUSSION OF THE ASSESSMENT PROBLEM AND THE OUTLINE OF
A PLAN FOR CO-OPERATION BETWEEN THE BOARD OF STATE
TAX COMMISSIONERS AND LOCAL ASSESSING OFFICERS

21/10/1933

As the institutions of our State, together with those of all its various governmental sub-divisions, grow in number and magnitude, as population and wealth increase, as industry becomes more diversified, the question of taxation develops increased importance and absorbing interest.

A just and equitable distribution of the burden of taxation is a fundamental principle of popular government. There always has been, and, doubtless, always will be, many and widely differing systems advocated for providing the money necessary for the expenses of government, but any system, to meet the approval of the sovereign people, must be based upon the principles of justice and equity to all concerned. Neither assessing officers nor the Board of State Tax Commissioners are concerned with theories of assessment and taxation. They are simply charged with the correct and complete administration of assessment and taxation laws as they find them.

The sovereign people of Michigan have determined it to be just and equitable for all the property of the State to contribute to the expenses of government, and, therefore, since the organization of our State a general property tax has been the principal feature of our revenue system for both state and local purposes.

The sovereign people of Michigan have also decreed, as evidenced by Section 7 of Article X of the Constitution of 1909, that:

"All assessments hereafter authorized shall be on property at its true cash value."

Thus it is written in the fundamental law of the State that for taxation purposes there shall be no varying or uncertain basis of values employed, no percentage system, but instead one equitable and fixed basis, that of actual cash value. The State has from time to time decreed that certain kinds of property shall be removed from the general tax roll and taxed specifically, but as to all property listed on the general tax roll of the State, there is no exception to the constitutional requirement of true cash value, no legal authority for any other basis of assessment.

As to what constitutes "cash value" Section 27 of the General Tax Law reads:

"The words 'cash value' whenever used in this act shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of the assessment, being the price which could be obtained therefor at private sale and not at forced or auction sale."

The Supreme Court of Ohio has declared:

"That property is worth for taxation whatever it is worth for sale."

The Supreme Court of the United States, the highest tribunal in our land, expresses the same idea by saying:

"It is a cardinal rule that should never be forgotten that whatever property is worth for the purpose of sale, it is worth for the purpose of taxation."

There is nothing uncertain about the definition of "cash value" or the methods for determining it. It is not necessarily what the property originally may have been purchased for, nor what it would now cost to reproduce, nor what it would sell for in some other locality or at forced or auction sale or in the aggregate with other properties in the community; it is not necessarily to be determined from the income it produces nor the pleasure it gives its owner, nor the price he may demand for it; it is the usual selling price of property at private sale in the community where the property is located at assessment time.

For the assessment of the general properties of the State for taxation purposes Section 10 of the General Tax Law provides:

"An assessment of all the property in the State liable to taxation shall be made annually in the several townships, villages and cities thereof by the supervisors of the several townships or in villages and cities where provision is made in the acts of incorporation or charter for some other assessing officer, then by such assessing officer as hereinafter provided."

The duty and responsibility of justly and fairly ascertaining and recording the true cash value of all property liable for taxation is thus by law placed upon local assessing officers. However, when it is called to mind that Michigan is a great state in which there are over 1,700 assessing districts, and that these districts include both old settled communities and extremely new sections, with widely varying classes and kinds

of property, it becomes apparent that to maintain uniformity in assessments is a most difficult problem, and practically impossible of accomplishment except through some central supervising authority. To provide such supervision and in answer to the demands of the people that just and equitable taxation prevail throughout the State, the Legislature created the "Board of State Tax Commissioners," and charged it with the duty of seeing that a general condition of uniform assessments at true cash value prevails throughout the State.

The people of Michigan having decreed a general property tax for the support of state and local government, and having written into the constitution "true cash value" as the basis for all assessments, and having established a "Board of State Tax Commissioners" as a supervising body for the purpose of seeing that uniform assessments at cash value prevail throughout the State, it is important that certain conditions having a direct bearing upon the assessment of property at true cash value be explained.

During the development period of our State various public utility corporations came into existence, and, because of their extraordinary character and purpose, were classed apart from the general properties of the State and either paid taxes specifically or escaped taxation entirely. During the subsequent period of agitation for just and equal taxation these properties were given special attention with the result that Section 5 of Article X of the State Constitution contains the following:

"The Legislature may provide by law for the assessment at its true cash value by a *State Board of Assessors*, of which the Governor shall be ex officio a member, of the property of corporations and the property by whomsoever owned, operated or conducted, engaged in the business of transporting passengers and freight, transporting property by express, operating any union station or depot, transmitting messages by telephone or telegraph, loaning cars, operating refrigerator cars, fast freight lines, or other car lines, and running or operating in any manner upon railroads or engaged in any other public service business and for the levy and collection of taxes thereon."

Acting under this section of the constitution the Legislature has created a "State Board of Assessors," consisting of the Governor and the members of the Board of State Tax Commissioners, to assess such property at true cash value, has prescribed the methods for determining such

cash value, and has provided heavy penalties for any departure therefrom in such assessments.

The Act which created the State Board of Assessors and provides for the assessment of public utility corporations at true cash value, also provides that the rate of taxation to be paid on such assessment shall be the average rate paid by the general properties of the State. The statute condensed reads as follows:

"It shall be the duty of the State Board of Assessors to ascertain and determine the average rate of taxation for the year levied upon other property upon which ad valorem taxes are assessed for state, county, township, school and municipal purposes. Said Board shall tax the properties of the several corporations (railroads and similar corporations) as assessed by it at the rate as determined by it."

Under this act the State Board of Assessors, for the year 1913, assessed the railroads, telegraph, telephone and other similar corporations at \$243,229,400 and the tax levied will bring into the primary school fund of the State \$5,243,669 as against \$1,617,385 paid by the same class of corporations the year previous to the inauguration of the ad valorem system.

The situation resulting from the constitutional requirements and Legislative enactments as to assessment and taxation is as follows:

A general property tax for providing the principal revenues of both the State and its various governmental sub-divisions; the basis for assessment and taxation fixed in the constitution at true cash value; the duty and responsibility of justly and fairly ascertaining and recording such true cash value placed upon the supervisors and other assessing officers; a "Board of State Tax Commissioners" as a central supervising body for the purpose of securing uniformity in assessments; a "State Board of Assessors" for the assessment at true cash value of the property of corporations engaged in what is commonly known as public utility business, and for levying taxes upon such true cash value at the average rate paid by the general properties of the State.

Prior to the agitation for just and equal taxation, which resulted in placing railroad and other public utility properties upon the ad valorem basis for taxation, the great majority of assessing officers had, as it were by common consent, ceased to obey the mandate of the constitution to assess property at true cash value. Instead they followed individual rules of their own determination which, the State over, resulted in low

assessments and correspondingly high rates of taxation. This long continued but absolutely unlawful practice was not abandoned when the public utility properties were placed upon the ad valorem basis and assessed at their true cash value, with the result that when the State Board of Assessors applied to such cash value assessments the average rate paid by the general properties of the State, it was clearly apparent that, as between the general properties of the State more or less under-assessed and the public utility properties assessed at cash value and taxed at the rate resulting from under-assessment of other properties, an injustice was being done the utility corporations.

But the injustice to the public utility corporations resulting from under valuation of the general properties of the State is not the only, nor the greatest cause for just complaint. Investigation of assessment figures, gathered by the Tax Commission annually for the purpose of determining the average rate of taxation throughout the State, has disclosed that the assessment of general property varies in every county of the State and ranges from 40% of cash value in some to 80% of cash value in others, and this inequality exists not only between different counties but often between different townships in the same county. Almost the same inequality in assessment valuations was shown, by the investigation undertaken by the "Commission of Inquiry into Taxation," to exist throughout the entire State between the different classes of general property. These conditions, in most part caused by departure from cash value standards of assessments, have resulted in an unjust and unequal distribution of the burden of State taxation between communities, between individuals and between classes of property.

While recognizing these conditions and the necessity of a central supervising authority to remedy them, the Legislature has until recently been somewhat hesitating in defining the limits under which the State Tax Commission should proceed, but since 1909 it has continually increased the powers and duties of the Tax Commission, especially with respect to reviewing assessments, until in 1911 it conferred authority upon the Tax Commission to undertake general reviews of assessments on its own initiative. Based upon this authority the system of re-appraising and reviewing assessments by counties has been developed and eighteen counties have been entirely reassessed and general property placed at cash value, and the Commission is now working in other counties, including the important County of Kent and the City of Grand Rapids. As illustrating results where assessments have been placed at cash value by the Tax Commission, we would call attention to the fact that for sixteen of the counties reassessed the aggregate assessment

as fixed by the Tax Commission was \$801,552,107, as against an aggregate assessment of \$460,339,995 made by the supervisors of the same counties the previous year.

This county unit system while effective in its results requires time for its completion. Public opinion, once indifferent, now acknowledges that departure from true cash value in assessments results in injustice and inequity as a whole and in untold individual errors, and is heartily in favor of any effective and business like program for hastening the work of placing assessments at cash value. The Legislature of 1913 in touch with the public pulse upon this question enacted mandatory instructions for the Board of State Tax Commissioners.

Section 150 of Act No. 153 of the Public Acts of 1913, defining the duties of the Board of State Tax Commissioners, reads in part:

"It shall be the duty of said board:

1. To have and exercise general supervision over the supervisors and other assessing officers of this State, and to take such measures as will secure the enforcement of the provisions of this act, to the end that all the properties of this State, liable to assessment for taxation, shall be placed upon the assessment rolls and assessed at their actual cash value.
2. To confer with and advise assessing officers as to their duties under this act, and to institute proper proceedings to enforce the penalties and liabilities provided by law for public officers, officers of corporations and individuals failing to comply with the provisions of this act; to prefer charges to the Governor against assessing and taxation officers who violate the law, or fail in the performance of their duties in reference to assessment and taxation, and in the execution of these powers the said board may call upon the Attorney General or any prosecuting attorney in the State to assist said board."

The State Tax Commission, in view of this drastic legislation, cannot now escape responsibility for the continuance of under cash value assessments on the ground of insufficient supervising authority over assessing officers. It cannot justify continuance of the present county unit plan of reassessment if it does not also attempt to accomplish the same thing "by conferring with and assisting local assessing officers." It cannot defend its policy of holding assessing officers, in counties reassessed, to full cash value assessments in the future, if it does not invoke the penalty feature of the new law against assessors who con-

tinue to under value property in counties not yet visited by the State Tax Commission. Therefore, in view of changed popular sentiment that now demands immediate results, and in line with the instructions of the last Legislature, the State Tax Commission has determined to so plan its work for 1914 that, instead of concentrating all efforts upon a few counties, it will attempt to bring the entire State up to cash value at once by a system of State wide supervision and assistance to local assessing officers. As features of such a system the Tax Commission has decided:

1. To give all supervisors and assessing officers, in counties where the Commission has not made or is not now making reassessments, an opportunity to themselves bring assessments in their districts up to cash value and to have the same equalized on that basis by their own local board of review.
2. To make the work of "exercising supervision over and conferring with and advising assessing officers," which is required of the Tax Commission by the Act of 1913, part of a system of co-operation between the State Tax Commission and assessing officers for bringing about cash value assessments through local officers.
3. To recognize the work of assessing officers who place their assessments at cash value by not holding reviews in their townships as long as assessments are kept at cash value, thus leaving the supervisor and local board of review free to annually equalize the assessment unhampered by the law which provides that assessments fixed by the Tax Commission cannot be lowered without consent of the Tax Commission for three years.
4. To protect the districts voluntarily placing assessments at cash value by reassessing those districts where the assessing officers either refuse or fail to assess at cash value.
5. To further protect the districts voluntarily placing assessments at cash value by promptly responding to any appeal of their assessing officers in case of discrimination against them by the board of supervisors in the county equalization.
6. To uphold the law of 1913 by preferring charges to the Governor against supervisors who knowingly assess at other than cash value.

7. To furnish assessing officers a copy of the manual used by the examiners of the State Tax Commission to assist in solving the more common problems that confront assessing officers in their work.

8. To establish at the Tax Commission office in Lansing a bureau of complaints and appeals for examining and reporting upon all complaints against the work of either the Tax Commission's examiners or local assessing officers and endeavor to adjust such complaints without review.

The State Tax Commission recognizes the difficulties under which assessing officers labor when first making assessments at true cash value. To assist in carrying out the above plan it will place its entire force of examiners at the disposal of the assessing officers of the State during the time of making the 1914 assessments. Whenever the supervisors of a county, or certain individual supervisors of a county, request it, two or more experienced examiners will be sent to that county instructed to confer with and work with the county assessing officers, dividing their time between the supervisors willing to be assisted. They will be able, when working with a supervisor, to indicate to him what is considered cash value assessment by the Tax Commission, and thus bring the supervisor's ideas of cash value into harmony with those of the Tax Commission. They will be able, by conferring back and forth between the supervisors, to insure uniformity among them as to cash values. They will be able to examine and recommend assessments upon properties regarding which the supervisor feels he has not sufficient knowledge or experience.

The Tax Commission will also co-operate with the supervisors by having its experts examine and appraise the public utility properties, such as interurban railways and electric light and power companies, and thus secure uniformity in the assessments of such property throughout the State.

Besides assisting in making cash value assessments, the Tax Commission will endeavor to protect to the limit all assessing officers who, either on their own initiative or in answer to the appeal of the Tax Commission, have properly assessed their districts.

We would especially call attention of both the supervisors and the taxpayers to the fact that no expense will result either to the supervisor or the township because of the assistance of the representatives of the Tax Commission. On the other hand, if their assistance enables the local

assessing officer to hasten his work, it will be a decided financial gain to his township.

We have sometimes found taxpayers under the impression that taxes would necessarily be increased if assessments were raised. This is an error. The aggregate amount of taxes levied in a township is not changed when assessments are brought up to cash value, unless the township has paid less than its proper share of state and county taxes in the past. This is so, even of the taxes ordinarily levied in mills. If the one mill school tax, because of increased valuation, produces more money, the voted school tax can be reduced an equal amount. If the highway tax as ordinarily voted would produce a larger sum, vote the highway tax at the amount needed in dollars, not by mills. The same idea is true as to individuals. As assessments go up the tax rate drops proportionately unless a larger tax is voted or the individual is one who has not paid his proper share in the past.

As illustrating this the tax rate in the counties reassessed in 1912 dropped from \$24.72 per thousand dollars of valuation to \$14.19 per thousand dollars of valuation, and the tax rate in the counties reassessed in 1913 dropped from \$22.03 per thousand to \$15.97, per thousand in spite of a State wide increase of taxation the present year. Taking single counties, the Baraga county tax rate dropped from \$40.43 to \$22.84; the Berrien county rate from \$25 to \$13.53, and the Calhoun county rate from \$23.61 to \$14.96 per thousand dollars of valuation.

Both the supervisor and the taxpayer should at all times remember that it is better for a community to have its supervisor make the assessment at cash value than for the representatives of the Tax Commission to do so. The supervisor doing the work and the local board of review equalizing, unhampered by the Tax Commission as long as they do not depart from cash value, can make a far better and more satisfactory assessment than the best experts of the Tax Commission can do, because of their greater familiarity with local conditions that affect values. Also the supervisor can continue to make the assessment and the local board to review it year after year and make proper changes without consulting the Tax Commission, whereas an assessment reviewed by the Tax Commission cannot be reduced for three years without their written consent.

We would also call the attention of the supervisor himself to the fact that he cannot afford to make assessments this year at other than cash value. The last Legislature recognized the inconsistency of having the Tax Commission follow assessing officers and duplicate their work at great expense, simply because the officers elected for that purpose refused to do the work properly and legally, and, by new legislation,

placed the responsibility of the continuance of such a situation directly upon the Tax Commission, and that Commission cannot and will not do otherwise than prefer charges as required by law against those who do not assess at cash value. In this connection it is proper to say that the assessment of every township in the State for many years past is filed with the State Tax Commission. The assessment for 1914 will in proper time be added to those files. The Tax Commission also has information already collected or now being collected for use in connection with the State Equalization, from which it can determine the per cent of cash value each district in the State is assessed. It will, with this information before it, examine every report for 1914 and determine if the supervisor has followed the law.

Supervisors often remark, "I would gladly raise my assessments to cash value if I were not afraid that other supervisors would not, and my township would suffer in county equalization." With the Tax Commission determined to protect your district if you properly assess and equally determined to reassess your district if you do not; with one-third of the State now assessed at cash value; with the machinery in operation for rapidly placing the rest of the State at cash value; with the alternative confronting you of either yourself properly assessing your district or having it so assessed by the Tax Commission; with a most drastic law, to prevent under-valuations, certain to be rigidly enforced; can you afford to be influenced by fear of what your associate supervisors may or may not do?

The State Tax Commission in this publication has endeavored to explain the assessment situation in Michigan at the present time, to show the absolute necessity of a return to cash value assessments, to point out the advantage of having such assessments made and reviewed by the local assessing officers instead of by the Tax Commission, and to offer a plan of co-operation to the local assessing officers under which they may safely make assessments at cash value. It remains to suggest how co-operation may be inaugurated.

In many counties it is the practice of the supervisors to hold a special session for the purposes of organization and conference immediately following the spring election and before beginning work on assessments. The Board of State Tax Commissioners suggests that such sessions be held in all the counties and that representatives of the Tax Commission be invited to attend for the purpose of conference. In case such a meeting cannot be held in a county and some of the supervisors wish aid and assistance in making a cash value assessment, a representative of the Commission will meet them and arrange to work with them and

later to reassess the townships where the supervisors are shown on investigation not to have assessed at cash value.

It is suggested that, inasmuch as supervisors of a large number of counties have already indicated their intention to hold a meeting with representatives of the Tax Commission, the county clerk, or some supervisor, communicate with the Lansing office of the Tax Commission before deciding upon a date, in order that there may be no conflict in dates that will prevent a representative of the Commission being present, because of previous engagements.

We are all working to the same end, a just, equitable and legal assessment of all property subject to taxation, and to accomplish that end let there be harmony and co-operation between the Tax Commission and the assessing officers of the State.

ORLANDO F. BARNES,
GEORGE B. HORTON,
THOMAS D. KEARNEY,

Members of the Board of State Tax Commissioners.

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